

BARCLAY DAMON ^{LLP}

Matthew J. Larkin
Partner

April 12, 2024

VIA ECF

Hon. Miroslav Lovric
Magistrate Judge
U.S. District Court
Northern District of New York
15 Henry Street
Binghamton, NY 13901

Re: Kearns v. Wallin and Syracuse University
NDNY Civil No.: 5:23-cv-01500 (DNH-ML)

Dear Magistrate Judge Lovric:

As you are aware, the above referenced matter, is stayed for 180 days pursuant to the Liquidation and Injunction Order of the Delaware Court of Chancery dated November 8, 2023 in the matter *Delaware ex rel. Navarro v. Arrowood Indemnity Company*, Case No. 2023-1126-LWW. Pursuant to your Honor's Text Order dated February 6, 2024 (Docket No. 27), this Court has recognized the stay imposed by the Liquidation and Injunction Order.

A new temporary stay affecting all Arrowood policyholders has now been issued by the New York State Supreme Court, New York County. On March 1, 2024, an Order to Show Cause was signed in *Matter Harris, Superintendent of Financial Services of the State of New York, for an Order of Appointment as Ancillary Receiver of Arrowood Indemnity Company*, New York County Index No. 450124/2024. *See* Exhibit A. The Order to Show Cause seeks the commencement of a New York ancillary receivership proceeding for Arrowood and appointment of Superintendent Harris as ancillary receiver of Arrowood, as well as a stay of the matter for a period of 180 days in all actions and lawsuits against insureds of Arrowood or in which Arrowood is obligated to defend an insured. The Order to Show Cause was set to be argued on March 28, 2024, but no Decision and Order has been issued at this point. While the Order to Show Cause is pending, all actions within the jurisdiction of the courts of the State of New York in which Arrowood is obligated to defend a party in a proceeding are stayed. *See* Exhibit A, p. 5

With the Order to Show Cause pending in the New York County ancillary receivership action, it is possible that all lawsuits against insureds of Arrowood or where Arrowood is obligated to defend an insured, such as this one, will be stayed for another 180 days. As part of the Order to Show Cause, Superintendent Harris submitted a Proposed Order to the court. *See* Exhibit B. The Proposed Order states that under N.Y. Insurance Law § 7410(a), it is mandated that Superintendent

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Harris be appointed Ancillary Receiver of Arrowood. See Exhibit B, ¶ 7. Insurance Law § 7410(a) states “[w]henver under the laws of this state an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the superintendent as ancillary receiver.” Based on the above, we expect that the Order to Show Cause will be granted, and an additional 180 day stay imposed.

As for the *Delaware ex rel. Navarro v. Arrowood Indemnity Company* matter itself, there have been no filings on the docket since the February 6, 2024, status conference. Per the Liquidation and Injunction Order, a proof of claim deadline of January 15, 2025, has been set. The University is working with it’s broker to file a claim with Arrowood, per the instructions of the Liquidation and Injunction Order and the Proof of Claims form.

We have conferred with Plaintiff’s counsel regarding the new stay, who will be filing a separate status report.

As always, we will continue to keep the Court apprised of any updates and changes. We remain available to the Court if a conference is required. Thank you for your consideration.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Matthew J. Larkin", with a stylized flourish at the end.

Matthew J. Larkin

MJL

cc: Counsel of Record **Via ECF**
Attachments